

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MARIA AGUILAR,

Plaintiff,

v.

AMERICAN MEDICAL SYSTEMS,
INC.,

Defendant.

NO. 2:20-CV-00259-SAB

**JURY TRIAL SCHEDULING
ORDER**

**JURY TRIAL SCHEDULED FOR
SEPTEMBER 13, 2021**

Recently, the above-captioned case was reassigned to this Court. Prior to this, the jury trial was set for September 13, 2021. ECF No. 59. This Order sets forth additional deadlines that correspond to that trial date.

Accordingly, **IT IS ORDERED:**

PROFESSIONALISM AND COURT-ASSISTED MEDIATION

1. Civility and Professional Conduct. Counsel should review and employ the Washington Rule of Professional Conduct 3.4 (Fairness to Opposing Party and Counsel).

2. Scheduling Order is Binding. Rule 16(f) of the Federal Rules of Civil Procedure provides for sanctions for failure to obey the Scheduling Order. The Court will usually accept stipulations to modify the dates specified in this Order, but modifications of pretrial deadlines may also result in a modification of the trial date.

1 **3. Settlement Conference/Mediation.** The parties are encouraged to engage in
2 settlement negotiations as early as possible and should contact the Court if they
3 believe a settlement conference would be helpful.

4 **TRIAL DATES**

5 **4. Jury Trial.** The jury trial shall commence on **September 13, 2021**, at **9:00 a.m.**
6 in **SEATTLE**, Washington. Counsel estimates a trial length of twelve to fifteen
7 days.

8 **5. Pretrial Conference.** An in-person pretrial conference will be held on
9 **September 7, 2021**, at **9:00 a.m.** in **SEATTLE**, Washington.

10 **DISCOVERY DEADLINES**

11 **6. Initial Disclosures.** The parties indicate that initial disclosures were exchanged
12 while the case was pending in the MDL.

13 **7. Expert Disclosures.**

14 *A. Initial Expert Disclosures.* Each Party shall identify its experts and serve
15 written reports as required by Rule 26(a)(2) on all other parties no later than
16 **January 26, 2021**. Each Party shall also provide dates for which those experts can
17 be available for deposition.

18 *B. Rebuttal Expert Disclosures.* Each Party shall identify its rebuttal experts
19 and serve written reports as required by Rule 26(a)(2) on all other parties no later
20 than **February 25, 2021**. Each Party shall also provide dates for which those
21 experts can be available for deposition.

22 *C. Modifications.* The parties may modify the deadline for exchange of
23 expert disclosures by joint stipulation filed with the court; a motion is not required.

24 **8. Discovery.**

25 *A. Discovery Limitations.*

26 *i. Depositions.* No more than ten depositions, each limited to seven
27 hours in one day, may be taken by the plaintiffs, defendants, or third-party
28 defendants without leave of the Court. Fed. R. Civ. P. 30(a)(2), (d)(1).

ii. *Interrogatories*. No party may serve more than twenty-five interrogatories, including discrete subparts, on any other party, without leave of the Court. Fed. R. Civ. P. 33(a)(1).

iii. *Requests for Production*. No party may serve more than thirty requests on any other party without leave of the Court.

B. *Discovery Deadline*. All discovery shall be completed on or before **April 26, 2021**.

C. *Responses*. To be timely, discovery requests must be served sufficiently in advance of the deadline to allow for timely response by the cutoff date.

D. *Necessity*. The parties shall file no discovery except as necessary to support motions or objections.

E. *Discovery Conferences*. To avoid wasted time and expense, Counsel may contact chambers to schedule a telephonic conference to obtain an expedited ruling on discovery disputes. Prior to the conference, each party may submit to the Court a one-page summary explaining the discovery dispute.

MOTION DEADLINES

9. Motions to Amend Pleadings. Any motion to amend the pleadings shall be filed and served by **March 17, 2021**.

10. Daubert Motion Deadline. Challenges to the admissibility of expert opinion testimony shall be made by written motion and filed by **March 5, 2021**. If the party challenging expert testimony anticipates that an evidentiary hearing shall be required, the party shall so advise the Court and opposing counsel in conjunction with the filing of its motions.

11. Dispositive Motions. All dispositive motions shall be filed and served on or before **May 4, 2021**.

12. Motions in Limine.

A. *Motions in Limine*: shall be filed and served on or before **August 16, 2021**.

1 B. *Responses*: shall be filed and served on or before **August 23, 2021**.

2 C. *Replies*: shall be filed and served on or before **August 30, 2020**.

3 D. *Notation*: Motions *in limine* shall be noted for hearing at the pretrial
4 conference.

5 TRIAL PREPARATION DEADLINES

6 **13. Exhibit and Witness Lists.**

7 A. *Exhibit Lists and Witness Lists*: shall be filed and served and exhibits
8 made available for inspection (or copies provided), on or before **August 9, 2021**.

9 B. *Identification*: The witness list shall include identification of each
10 witness's testimony.

11 C. *Notation of Exhibits*: Where feasible, all exhibits identified in depositions
12 shall be pre-marked with the exhibit numbers that will be used at trial. Plaintiff's
13 trial exhibits are to be numbered 1 through 199; Defendant's exhibits are to be
14 numbered 200 and following.

15 D. *Objections*: Objections to the opposing party's witness list or exhibit list
16 and any accompanying briefs shall be filed and served on or before **August 16,**
17 **2021**.

18 E. *Responses*: Responses, if any, to objections shall be filed and served on or
19 before **August 23, 2021**.

20 **14. Pretrial Exhibit Stipulation.**

21 A. *Stipulation*: The parties shall prepare a pretrial exhibit stipulation that
22 shall contain each party's numbered list of all trial exhibits with the opposing
23 party's objections to each exhibit, including the basis of the objection and the
24 offering party's brief response. All exhibits to which there is no objection shall be
25 deemed admitted, subject to any objections at trial that could not be raised in
26 advance.

27 B. *Deadline*: The pretrial exhibit stipulation shall be filed on **August 23,**
28 **2021**.

1 C. Objections to witness and exhibits shall be heard at the pretrial
2 conference.

3 **15. Designation of Testimony.**

4 The parties shall notify the Court on or before **July 30, 2021** whether
5 deposition testimony will be used at trial. The Court will then schedule a hearing to
6 review all designated testimony and objections so that a final edited version of the
7 deposition testimony can be prepared for trial.

8 **16. Pretrial Order.**

9 A. *Deadline:* A joint Pretrial Order, prepared in accordance with the format
10 provided in Local Rule 16.1(e), shall be filed on or before **September 1, 2021** and
11 a copy e-mailed in Word format to the Court at bastianorders@waed.uscourts.gov.

12 B. *Consistency:* The list of exhibits contained in the joint Pretrial Order shall
13 reflect the exhibit marking scheme described above in paragraph 13(A).

14 C. *Duplicative Exhibits:* In preparing the joint Pretrial Order, the parties
15 shall confer regarding duplicate exhibits and determine which party will submit
16 such exhibits for trial.

17 **17. Trial Briefs and Proposed Voir Dire.** Trial briefs and voir dire shall be filed
18 by **September 8, 2021**.

19 **18. Jury Instructions.** No later than **September 8, 2021**, the parties shall file
20 jointly proposed jury instructions.

21 A. *Confer.* The parties shall confer regarding jury instructions and file
22 jointly proposed jury instructions and a table of proposed Jury Instructions. The
23 jointly proposed Jury Instructions should address only issues that are unique to this
24 case and shall include instructions regarding the elements of each claim, any
25 necessary definitions, and a proposed verdict form.

26 B. *Modifications.* If any proposed instruction is a modified version of model
27 instructions or deviate from model instructions, the parties shall identify the
28 modification and cite legal authority for the modification.

1 **19. Submissions on the First Day of Trial.** The Court requires that the following
2 be submitted to the courtroom deputy clerk on the first day of trial:

3 A. *Exhibits.* Exhibits for presentation at the trial in tabbed binders indexed
4 by exhibit number with exhibit tags placed consistently on the bottom right corner
5 of each exhibit. Counsel shall submit to the Court an original binder and two
6 copied binders of their exhibits together with three discs or flash drives containing
7 the same.

8 B. *Exhibit List.* One copy of a final joint exhibit list.

9 C. *Witness List.* One copy of witness lists in the order in which the witnesses
10 are expected to be called to testify.

11 **MODIFICATIONS**

12 **20. Good Cause.** Pursuant to Rule 16 of the Federal Rules of Civil Procedure, this
13 schedule shall not be modified unless the Court finds good cause to grant leave for
14 modifications.

15 **SETTLEMENT CONFERENCE**

16 **21. Settlement Conference.** A settlement conference shall be held no later than
17 **May 30, 2021.**

18 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
19 this Order and to provide copies to counsel.

20 **DATED** this 11th day of June 2020.

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25 **STANLEY A. BASTIAN**
26 **United States District Judge**
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